

REMARKS

Claims 1-33 are all the claims pending in the application.

I. Drawings

Applicant notes that the Examiner has not yet indicated acceptance of the drawings submitted on September 25, 2003. Applicant respectfully requests indication of acceptance of the drawings with the next Office communication.

II. Claim Rejections under 35 U.S.C. § 101

Claims 9-16 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection.

In particular, the Examiner asserts that “[f]or example, claim 9 states, system for generating content management information . . . (software), [comprising] means for saving initial information. . . which does not contain any hardware means, . . . [and, as such, the means] **are all software means**”. (Office Action, P. 2).

Claims 9-16 are means-plus-function claims. “In a means-plus-function claim ‘in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, the **disclosed structure is . . . the special purpose computer programmed to perform the disclosed algorithm**.’” *Aristocrat Techs. Austl. Pty Ltd. v. Int’l Game Tech.*, 521 F.3d 1328, 1333 (Fed. Cir. 2008) (quoting *WMS Gaming, Inc. v. Int’l Game Tech.*, 184 F.3d 1339, 1349 (Fed. Cir. 1999)).

The specification sets forth an exemplary algorithm for performing the claimed function of “saving initial information regarding a content object, said initial information comprising at least an initial reaction information regarding the content object” of claim 9 in the flowchart of Figure 3 and the discussion thereof. Further, the specification describes a program stored on a

computer readable medium that when executed by processor 120 perform processing step of the flowchart in Figure 3, i.e. the exemplary algorithm for performing the claimed function. (Specification, P. 35, Lns. 5-15). In other words, a special purpose computer programmed to perform the disclosed algorithm is described. As such, the specification clearly discloses structural components for performing algorithms that accomplish the recited functions. Thus, the structure corresponding to the claimed means must be interpreted as a "special purpose computer programmed to perform the disclosed" function. As such, Applicant respectfully submits that claims 9-16 are directed to statutory subject matter.

Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 101 to claims 9-16.

III. Claim Rejections under 35 U.S.C. § 103

Claims 1-7, 9-15, 17-23, 25-31 and 33:

Claims 1-7, 9-15, 17-23, 25-31 and 33 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Kawaguchi et al. (U.S. Publication No. 2002/0165832) in view of Nickerson et al. (U.S. Patent No. 7,085,820). Applicant respectfully traverses the rejection.

Claim 1 recites, *inter alia*,

saving initial information regarding a content object, said initial information comprising at least an initial reaction information regarding the content object;

determining, for each of a plurality of utilization information that each indicate a utilization result of another content object in the past, whether an initial information comprised by said utilization information is on the same level as the initial information of the content object;

extracting utilization information that comprises initial information determined to be on the same level as the initial information of the content object; and

generating content management information for the
content object based on the extracted utilization
information

In the Office Action, the Examiner asserts that Kawaguchi teaches or suggests the above highlighted claim recitations. Kawaguchi is directed to a system for managing product information related to products handled by department stores, supermarkets and other retailers, and more particularly for efficiently registering product information in product databases at respective retailers.

The Examiner asserts that the “products” of Kawaguchi teach or suggest the claimed “content objects”. The Examiner further asserts that the operations described in paragraphs 37, 38, 42, 43, 44, and 46-54 teach or suggest the claimed “**determining, for each of a plurality of utilization information that each indicate a utilization result of another content object in the past, whether an initial information comprised by said utilization information is on the same level as the initial information of the content object**”. (Office Action, P. 4).

However, Applicant respectfully submits that the operations of the cited paragraphs of Kawaguchi only discuss determining if information regarding **the same product is already resident in the product databases and operations in this regard**. Kawaguchi clearly fails to teach or suggest any determination of whether any information of **a first product** is “on the same level” as the information of **a second product**. Further, there is no discussion of extracting information regarding **another product** and then “generating . . . information for the [first product] based on the extracted utilization information [of the another product]”. As such, since the operations of Kawaguchi relate to information of one particular product and not the claimed product and **another** product, Applicant respectfully submits that Kawaguchi fails to teach or suggest at least this limitation of the claim.

Having pointed the technical deficiencies in Kawaguchi vis-à-vis independent claim 1, Applicant respectfully submits that it is not difficult to see that Nickerson does not compensate for the deficiencies of Kawaguchi. Furthermore, even the combined teachings of the two references, taken as a whole for what they would have meant as a whole to an artisan of ordinary skill, cannot be said to meet the express requirements of claim 1.

Accordingly, Applicant respectfully submits that claims 1-7 would not have been obvious under 35 U.S.C. § 103(a) over Kawaguchi in view of Nickerson, because the references, alone or in combination, do not teach or suggest all of the features and limitations of the claims. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claim 1 and of claims 2-7, at least by virtue of their dependency from claim 1.

Further, Applicant submits that independent claims 2, 9, 10, 17, 18, 25, 26, and 33 and their dependant claims 11-15, 19-23, and 27-31 are also patentable over Kawaguchi for at least similar reasons. As such, Applicant respectfully requests that the Examiner withdraw the rejections of independent claims 2, 9, 10, 17, 18, 25, 26, and 33 and of dependent claims 11-15, 19-23, and 27-31.

Claims 8, 16, 24, and 32:

Claims 8, 16, 24, and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Kawaguchi et al. (U.S. Publication No. 2002/0165832) in view of Nickerson et al. (U.S. Patent No. 7,085,820), further in view of Lee et al. (U.S. Publication No. 2002/0007368).

Above, Applicant points out that Kawaguchi in view of Nickerson is deficient vis-à-vis independent claims 1, 9, 17, and 25. Applicant respectfully submits that Lee fails to compensate for the deficiencies of Kawaguchi in view of Nickerson. Even taken for what they would have

meant as a whole to an artisan of ordinary skill, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to the subject matter of independent claims 1, 9, 17, and 25, much less dependent claims 8, 16, 24 and 32.

Therefore, claims 8, 16, 24 and 32 would not have been obvious within the meaning of 35 U.S.C. §103(a). Additional, untaught modifications would have been necessary.

Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 8, 16, 24 and 32.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER

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/Logan J. Brown 58,290/
Logan J. Brown
Registration No. 58,290